

GILBERT, KELLY, CROWLEY & JENNETT LLP
 TIMOTHY W. KENNA, State Bar. No. 064280
 JENNIFER M. DAMON, State Bar No. 115963
 1055 West Seventh Street, Suite 2000
 Los Angeles, California 90017-2577
 Telephone: (213) 580-7000
 Facsimile: (213) 580-7100

Attorneys for Plaintiff
 NORTH AMERICAN CAPACITY INSURANCE
 COMPANY, as successor in interest to UNDERWRITERS
 INSURANCE COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTH AMERICAN CAPACITY
 INSURANCE COMPANY, as successor in
 interest to UNDERWRITERS INSURANCE
 COMPANY,

Plaintiffs,

v.

TURNER CONSTRUCTION COMPANY, a
 corporation; JAMES E. ROBERTS-OBAYASHI
 CORPORATION; WILLIAM LYONE HOMES,
 INC., a corporation, DAME CONSTRUCTION
 CO., INC., a corporation, GONSALVES &
 SANTUCCI, d/b/a CONCO CEMENT
 COMPANY,;

Defendants.

) Case No. C03-05521WDB

) **STIPULATION AND ORDER OF**
) **DISMISSAL PURSUANT TO FEDERAL**
) **RULE OF CIVIL PROCEDURE 41(a)(1)**

IT IS HEREBY STIPULATED by and between Plaintiff, NORTH AMERICAN
 CAPACITY INSURANCE COMPANY, as successor in interest to UNDERWRITERS
 INSURANCE COMPANY ("NAC") and Defendant, TURNER CONSTRUCTION COMPANY, a
 corporation, by and through their undersigned counsel, that the complaint of NAC and all related
 causes of action against TURNER CONSTRUCTION COMPANY are hereby dismissed, with
 prejudice, pursuant to Federal Rule of Civil Procedure, Rule 41(a)(1).

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1 As a result of a settlement reached between the parties, each side is to bear their own fees
2 and costs herein.

3 Dated: May 12, 2006

4 GILBERT, KELLY, CROWLEY & JENNETT LLP

5
6 By: /S/

7 TIMOTHY W. KENNA, ESQ.
8 JENNIFER M. DAMON, ESQ.
9 Attorneys for Plaintiff
10 NORTH AMERICAN CAPACITY
INSURANCE CO. AS SUCCESSOR IN
INTEREST TO UNDERWRITERS
INSURANCE COMPANY

11 Dated: May 16, 2006

12 LONDON FISCHER LLP
13 RICHARD S. ANDRES, ESQ.

14 SAXE DOERNBERGER & VITA, PC
15 KEVIN P. DEAN, ESQ.

16 By: /S/

17 KEVIN P. DEAN, ESQ.
18 Attorneys for Defendant
TURNER CONSTRUCTION COMPANY

19 IT IS SO ORDERED

20 Dated: May 17 , 2006

21 /s/ Wayne D. Brazil

22 By: HONORABLE WAYNE D. BRAZIL
23 UNITED STATES MAGISTRATE JUDGE
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